



MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION JULY 11, 2007

Acting Chair Lenny Levy called the meeting to order at 7:30 p.m. Present at the meeting were Commissioners Matthew Hopkins, Lloyd Kaufman, and Danny Winborne, Alternate Commissioner Geri Lanier, Planning and Code Administration Director Greg Ossont, Planning Director Lauren Pruss, Community Planning Director Trudy Schwarz, Environmental Services Director Erica Shingara, Planners Jacqueline Marsh and Patricia Patula, Environmental Specialist Eli Golfer, and Recording Secretary Myriam Gonzalez. Acting Chair Levy noted that Alternate Commissioner Lanier would participate this evening, since not all Commissioners were present. Absent: Chair John Bauer.

I. APPROVAL OF MINUTES

June 6, 2007, Planning Commission Meeting

Commissioner Kaufman moved, seconded by Commissioner Winborne, to APPROVE the Minutes of the June 6, 2007, Planning Commission Meeting, as submitted this evening.

Vote: 5-0

June 27, 2007, Special Planning Commission Meeting

Commissioner Kaufman moved, seconded by Commissioner Winborne, to APPROVE the Minutes of the June 27, 2007, Planning Commission Meeting, as submitted this evening.

Vote: 5-0

II. CONSENT

AFP-07-019 -- 99 EZ Super Save at Festival at Muddy Branch C-2 Zone
275 Muddy Branch Road
160-Sq.Ft. Sign
AMENDMENT TO FINAL PLAN REVIEW

Commissioner Hopkins moved, seconded by Commissioner Kaufman, to APPROVE the Consent Agenda.

Vote: 5-0

III. RECOMMENDATION TO BOARD OF APPEALS

A-532 -- Jeff Gordon Self Defense Academy, LLC CBD Zone
200 Girard Street, Suite 205/207
5,844 Sq.Ft. Private Educational Institution
SPECIAL EXCEPTION

Community Planning Director Schwarz introduced this application and noted the locations of the property and of the proposed use in the rear of the building.

Architect for the applicant, Michael Greigg, Soe Lin & Associates, noted the special exception request is due to the zoning of subject property for office and warehouse and the proposed use is for an educational institution, which is allowed by special exception. He indicated that the purpose is to conduct self-defense classes in the evenings and weekends and, consequently, the parking needs do not impact the daytime parking availability of the Girard Business Center. He discussed size of classes and staff.

In response to Commissioner Hopkins and Acting Chair Levy, Mr. Greigg indicated that there are no outdoor activities and that the interior layout is a big open space with mats on the floor.

There was no testimony from the public.

Mrs. Schwarz noted the Commission had received a draft resolution of approval with the information packet, as the application complies with Zoning Ordinance §§ 24-160F.2(b)(5) and 24-189(b), subject to compliance with conditions that she listed.

Commissioners Hopkins and Winborne commented favorably on the proposed use.

Commissioner Kaufman moved, seconded by Commissioner Winborne, to recommend to the Board of Appeals APPROVAL of Appeals Case A-532, with the following conditions:

1. This special exception is granted for the Jeff Gordon Self Defense Academy only and shall terminate at the time of the expiration of their lease and/or any subsequent lease renewals; and
2. Class times are limited to the hours specified in the applicant's statement (Exhibit #3).

Vote: 5-0

IV. SITE PLANS

AFP-07-016 -- Seneca Center II
18753 N. Frederick Avenue
Revise Parking Lot Layout
AMENDMENT TO FINAL PLAN REVIEW

E-1 Zone

Planner Patula located the property on an aerial photograph, noting this site is under construction and the parking area has not yet been established. She indicated that this application seeks approval to amend the previously-approved parking plan, since the applicant is proposing the addition of loading bays.

Applicant Paul Klinedinst, Seneca Center II, LLC, presented a colored plan and building elevations and noted the location of the four proposed additional loading docks and the parking spaces to be relocated, adding that there would be no parking loss.

In response to questions of Acting Chair Levy and Commissioners Kaufman and Winborne, Mr. Klinedinst stated that there would be a two-percent green space loss, noted the dumpster locations, and briefly discussed the interior traffic circulation.

There was no testimony from the public.

Ms. Patula voiced staff's recommendation for approval, as the plan meets the approval criteria of the Zoning Ordinance, subject to the applicant's compliance with conditions that she listed.

Commissioner Kaufman spoke in favor of the plan, noting the plan's improvement of the traffic circulation on the site.

Commissioner Winborne moved, seconded by Commissioner Kaufman, to grant AFP-07-016 – Seneca Center II, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance Zoning Ordinance §§ 24-170 and 24-172, with the following conditions:

1. Applicant is to provide to the Department of Public Works, Park Maintenance & Engineering (DPWPM&E) a site plan showing an enlargement of the area surrounding Retaining Wall "E" prior to any approvals;
2. Applicant is to receive final approval of new and revised retaining walls by the DPWPM&E;
3. Applicant is to receive new permits for construction of these new and/or revised retaining walls;
4. Applicant is to receive approval of final dumpster enclosure location and lighting plan by DPWPM&E prior to issuance of remaining permits; and
5. Applicant is to receive approval of adjusted Landscape/Forest Conservation Plan by staff prior to the issuance of a use and occupancy permit.

Vote: 5-0

CSP-06-001 -- Identity Community Center	CBD Zone
414 East Diamond Avenue	
New Building Totaling 1,270 Square Feet	
For Classroom/Multipurpose Space	
CONCEPT PLAN REVIEW	

Planner Marsh located the property and introduced this plan for a multipurpose classroom space.

Identity Executive Director Candice Kattar discussed the nature of the services rendered by Identity, stressed their need for additional meeting space and privacy for the students, which cannot be provided at the present facility, and noted there had never been concerns from the City associated with activities on their property.

Engineer for the applicant, Brian Donnelly, Macris, Hendricks and Glascock, presented and discussed the proposed plan, noting it includes extending the parking to the rear for a total of 12 spaces, and the driveway from 15 to 18 feet of width. He indicated this project will need waivers of the parking and the drive aisle width requirements, since the parking proposal has a two-space deficit and the driveway width required is 25 feet. Mr. Donnelly discussed the basis for the waiver requests, noting that since the students who use the facility do not drive and the volume of traffic entering the site is low, the waivers would not negatively impact the

surrounding uses or the site itself. Regarding the proposed building, he noted that it would not be visible from the street due to its proposed location in the rear of the property and that the materials include a significant amount of glass.

Architect for the applicant, Joseph Wnuk, Wnuk, Spurluk Architects, presented conceptual building elevations, noting the design simulates other outbuildings in the area. He also noted the proposed location of the new building is dictated by the existing trees, and discussed the proposed Leadership in Energy & Environmental Design (LEED) provisions.

The following speakers testified in favor of the proposal:

Ken Wise, 7823 Mystic View Court, Derwood, Maryland; Ana Moreno, Maria Diaz, Victor Fuentes, Senaida Lesama, Abigail Garcia, Luis Chavez, Rodrigo Fuentes, and Alvaro Ortiz. The above speakers were area students, parents, and a Gaithersburg business owner, who reported on the effectiveness of the services that Identity provides to the community and the lack of space to conduct meetings.

Kevin Jones, business owner at 412 East Diamond Avenue, presented photographs of the site, noted his property shares an ingress/egress maintenance agreement with the subject property, and voiced concerns with impact from parking, noise, loitering, and security issues.

Mr. Donnelly discussed the criteria used to establish the parking count, noting that since the proposed use is for general assembly, which is a category not listed in the Zoning Ordinance, the parking proposal was based on staff size, since the students are not drivers. He added, however, that most of the staff is usually off site. Ms. Kattar pointed out that no complaints were ever received from the City, and that concerns previously raised by the neighbor to Identity, had been addressed. In addition, Ms. Kattar discussed parent meeting times and parking practices, noting that Identity requires that vehicles mistakenly parked on the neighbor's side of the driveway be immediately moved to Identity's property. She indicated there is no directional signage identifying Identity's parking area.

Commissioner Winborne voiced concerns with the potential for a parking impact on the community from the applicant's additional services. In response to Commissioner Kaufman, Ms. Marsh noted that the Historic Preservation Advisory Committee (HPAC) has not reviewed the application, since the new building has no connection to the existing house and would not be visible from the street. Acting Chair Levy noted that the rear of the property may become more visible from Teachers Way, as part of the Olde Towne Master Plan proposed modifications to that street. Commissioner Kaufman was in favor of the use, but voiced a concern over the safety and security of the students in terms of access points into the building, i.e., streets, driveway, and parking during and after completion of construction.

Ms. Marsh voiced staff's recommendation for approval with conditions that she listed. Commissioner Kaufman recommended a courtesy review by the HPAC, given that the property houses a historic structure and is located in Olde Towne. Commissioner Hopkins commented favorably on the use on the site, noting it is appropriate given the complementary uses in the vicinity. Commissioner Hopkins stated that he had no concerns regarding the impact of the new structure on the existing historic building, since they will not be connected. Commissioner Winborne agreed and commented favorably on the community's involvement in the review process. Community Planning Director Schwarz noted that staff would conduct a parking survey on the site. The Commission discussed additional conditions to reflect their comments and moved as follows:

Commissioner Winborne moved, seconded by Commissioner Kaufman, to grant CSP-06-001 - Identity Community Center, CONCEPT PLAN APPROVAL, with the following conditions:

1. At the time of final site plan, the applicant shall obtain the appropriate parking waivers from the Planning Commission;
2. The applicant shall enter into a covenant with the City of Gaithersburg in order to deed the proposed alley at such time as it is necessary;
3. The storm water management facilities shall be constructed in a manner so as not to prohibit construction of the proposed alley;
4. The applicant shall address all comments as raised by the Environmental Affairs Division on the Preliminary Forest Conservation Plan;
5. The Historic Preservation Advisory Committee shall conduct a courtesy review of the new structure;
6. The applicant shall work with staff to create a shared driveway and parking signage program and provide a parking study on the subject property and the adjoining property; and
7. The applicant shall provide a security program analysis during and after construction of the new building.

Vote: 5-0

AFP-06-026 -- Long Fence and Home
441 North Frederick Avenue
Monument Sign
AMENDMENT TO FINAL PLAN REVIEW

CD Zone

Planner Patula located the site for the proposed monument sign on North Frederick Avenue, noting it is to be three feet higher than permitted by the Frederick Avenue Corridor sign guidelines.

Long Fence and Home President John DePaola provided background information relating to their business and presented the plan and proposed sign elevation, noting that its proposed eight-foot height can be allowed if the Planning Commission finds that special circumstances merit a sign adjustment. He discussed the existing conditions of the site, including the grading and limited depth of the front area, and the proximity of parking, noting they would significantly limit the visibility of a five-foot high sign by moving traffic. Mr. DePaola added that the subject proposal is the result of a year of deliberations to achieve the optimal design and location.

Applicant Thomas Kerley, Kerley Signs, in response to Commissioner Hopkins, noted that the parking on the front of the site is included in the required parking count and is of optimal use for the business. Also in response to Commissioner Hopkins, Community Planning Director Schwarz noted that it is uncertain at this time whether the proposed sign location would be within the right-of-way, as an up-to-date property survey is not yet available, noting that the sign being in the right-of-way would be in violation of § 24-210(h).

There was no testimony from the public.

Ms. Patula noted the proposal meets the approval criteria of the City Code, subject to the applicant's compliance with conditions that she listed.

Commissioner Kaufman voiced a concern with granting the waiver request in light of the lengthy reviews and revisions that resulted in the current Sign Ordinance. Commissioner Winborne echoed Commissioner Kaufman's comment and added that granting the waiver might set an undesired precedent. Commissioner Hopkins considered that the constraints of the site could merit granting a sign adjustment; adding, however, that the existing parking space closest to the curb at the front is more of a concern in terms of streetscape, and that relocating it would resolve the location issue for the sign as well. It was noted that the site provides just the nine required spaces.

Planning and Code Administration Director Ossont pointed out that the new Sign Ordinance provides for sign adjustments given the unique circumstances of some of the lots along the Frederick Avenue Corridor and its strict design guidelines. He noted that staff had been working with this applicant to achieve an appropriate sign and the request for the sign adjustment had undergone a long consideration. Planning Director Pruss also noted that the location of the existing building, wall and tree are added constraints on the site.

Commissioner Hopkins moved, seconded by Commissioner Lanier, to grant AFP-06-026 - Long Fence and Home, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance Article IX, with the following conditions:

1. Applicant is to assure that the final location of the monument sign is not in the public right-of-way. This location, if different from that shown on the site plan, is to be approved by staff;
2. Applicant is to work with staff to assure the appropriate location of the sign landscape base is outside of the minimum eighteen-(18)-foot parking space length prior to the issuance of a permit; and
3. Applicant is to correct Exhibit 9b (drawing of sign interior) to show the height from grade is eight feet.

Vote: 3-2 (Opposed: Kaufman and Winborne)

AFP-07-020 -- Rachel Carson Elementary School
100 Tschiffely Square Road
Portable Classroom
AMENDMENT TO FINAL PLAN REVIEW

MXD Zone

Planner Marsh located the property on an aerial photograph and introduced the applicant.

James Song, Montgomery County Public Schools, presented the plan, noting the location of the proposed additional portable. He discussed the need for the additional portable, noting that 798 students are expected this fall. He answered to Commissioner Winborne's comments on overcrowding, noting that a feasibility study is being conducted to determine using additions at nearby elementary schools to alleviate overcrowding at Rachel Carson.

There was no public testimony.

Ms. Marsh voiced staff's recommendation for approval, as the plan meets the City Code approval criteria

Commissioner Kaufman moved, seconded by Commissioner Lanier, to grant AFP-07-020 - Rachel Carson Elementary School, Courtesy AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-172.

Vote: 5-0

V. FOREST CONSERVATION PLAN

PI-V-060023 -- Crown Farm
Fields Road

MXD Zone

FINAL FOREST CONSERVATION PLAN AND
WILDLIFE MANAGEMENT PLAN

Commissioner Hopkins recused himself from this review noting it could pose a conflict of interest.

Environmental Specialist Golfer provided background information associated with the Crown Farm development reviews, which included a schematic development plan (SDP-06-005) and an environmental waiver that was approved in June 2007.

Engineer for the applicant, Dusty Rude, Rodgers Consulting, noted that these plans are the collaborative effort of The Humane Society of the United States, the City, and the applicant. He located the property and made a power point presentation outlining the features of the plans. He voiced concurrence with the staff's comments and recommended conditions.

Commissioners Kaufman and Winborne were enthusiastically supportive of the plans.

Mr. Golfer voiced staff's recommendation for approval, noting the plans meet all the approval criteria. Environmental Services Director Shingara made a clarification for Commissioner Winborne regarding in-kind compensation, as stipulated in Condition 7.

Commissioner Winborne moved, seconded by Commissioner Kaufman, to grant APPROVAL for PI-V-060023 – Crown Farm, finding it in compliance with Zoning Ordinance Chapter 22, § 24-171, and with the Environmental Standards for Development Regulation, with the following conditions

1. Prior to obtaining a permit for clearing activities for each phase, the applicant shall receive approval of an erosion and sediment control plan from the Department of Public Works, Park Maintenance, and Engineering (DPWPM&E);
2. Prior to clearing areas within the stream valley buffer for each phase, the applicant shall receive all necessary approvals and permits from the City, Montgomery County, adjacent landowners, the U.S. Army Corps of Engineers, Washington Suburban Sanitary Commission (WSSC), and Maryland Department of the Environment;
3. The developer of residential units located adjacent to forest conservation areas shall submit a plan delineating fence locations on residential lots, fence details, and homeowner disclosure documents mandating fence maintenance

responsibilities, to be approved by staff prior to final site plan approval for each phase;

4. Prior to the issuance of building permits for each phase, the applicant shall record forest conservation and storm water management easements in the Land Records of Montgomery County;
5. Prior to the issuance of building permits for each phase, the applicant will work with staff to record a record plat, which shall contain forest conservation easements, storm water management easements, the 100-year floodplain, 25' floodplain building restriction line, wetlands, 50' wetlands buffer, and the stream valley buffer;
6. The landscaping plans for each neighborhood shall include, at a minimum, the allotted portion of the 4.6 acres of street tree/landscaping credits as outlined in the Final Forest Conservation Plan;
7. All neighborhoods (including neighborhood 6, the school site) shall comply with the Wildlife Management Plan and the forest clearing, forest conservation, and afforestation quantities outlined in the Final Forest Conservation Plan; if the applicant or their successors can present adequate justification as to why they cannot comply with these requirements, they then must amend the Final Forest Conservation Plan and the Wildlife Management Plan and provide in-kind compensation;
8. The applicant shall be required to maintain all conservation areas in accordance with the woodland restoration and invasive species management plans until such time as the conservation areas are transferred to the Homeowners Association or the City of Gaithersburg; and
9. As part of the design and implementation of the onsite stream restoration project, the applicant will work with staff to develop tree protection, tree removal, and tree replacement plans.

Vote: 4-0

VI. FROM THE COMMISSION

Commissioner Kaufman

1. Voiced his disappointment with the way local newspapers had reported on the cancellation of the Commission's June 20 regular meeting due to a lack of quorum. He pointed out that the Commissioners volunteer their time and expertise in service to the City and the community, while holding full-time jobs that require their time as well. He also pointed out that circumstances such as that on June 20 are extremely rare due to the Commissioners' dedication.

2. Noted that One-Way signs in Kentlands are not easily seen and reported seeing motorists going the wrong way on one-way streets around the Kentlands Mansion and Arts Barn. He cited Briscoe and Selby Streets, and Inspiration Way, in particular, and asked that the City consider alternative more effective signage/measures.
3. Reported that Firehouse Lane in Kentlands has no Stop signs between Inspiration Lane and Leekes Lot Way, noting that the road configuration at the Hart Drive/Firehouse Lane intersection is particularly hazardous, as there is no place for a Stop sign.

Commissioner Winborne

1. Echoed Commissioner Kaufman's comments, adding that the Commission's commitment to service was evidenced by the fact that it made itself available for a special meeting.
2. Inquired about scheduling a training session as well as a joint meeting with the Mayor and City Council.

Acting Chair Levy

1. Shared the concerns expressed by Commissioners Kaufman and Winborne, adding that the Commission has had an exemplary attendance record not only at regular meetings, but at joint meetings with the City Council as well.
2. Inquired about the Urban Design Course offered by the Maryland Office of Planning for Commissioners who have not attended it.

VII. FROM STAFF

Community Planning Director Schwarz

1. Hidden Creek - Land Bay III -- Mutual Drainage Easements

Community Planning Director Schwarz discussed staff's memorandum dated July 5, 2007, recommending the Commission allow for a staff policy to work with lot owners at the above-referenced subdivision to set up guidelines for construction of decks and fences within Mutual Drainage Easements. The Commission supported staff's recommendation.

2. Referenced a plan the Commission approved earlier this year for The Good Shepherd Lutheran Church on South Frederick Avenue, noting that in accordance with one of the Commission's approval conditions, the State Highway Administration conducted a study of the South Frederick Avenue/South Westland Drive intersection and has approved a count-down traffic signal.
3. Announced that the next regular meetings are scheduled on July 25 and August 8, and reminded all that as customary, there will be only one regular meeting in August.

Planning Director Pruss

Announced that a series of workshops for the Kentlands Boulevard Commercial District have been scheduled in July and September, culminating with a Charrette to be

conducted on October 4 through 9. She indicated that specific information is available at www.kentlandsboulevard.com.

ADJOURNMENT

There being no further business to come before this session, the meeting was duly adjourned at 10 p.m.

Respectfully submitted,

M. Gonzalez
Recording Secretary